

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 05-54408

JOHN WILSON
and MARY WILSON,

Chapter 7

Judge Thomas J. Tucker

Debtors.

**ORDER DENYING RAUL MOYO NEGRETE'S "MOTION TO RECONSIDER
ORDER IN THE BANKRUPTCY COURT FOR AN ADVERSARY PROCEEDING
& FILING FEE"**

This case is before the Court on the "Motion To Reconsider Order in the Bankruptcy Court for An Adversary Proceeding & Filing Fee" (Docket # 80) filed by Raul Moyo Negrete on March 27, 2006, which (1) seeks reconsideration of the Court's February 14, 2006 "Order Requiring Raul Moyo Negrete To Cause The Lawrence Correctional Center to Cease Making Installment Payments To The Bankruptcy Court For An Adversary Proceeding Filing Fee"; (2) requests that the Court construe "Mr. Negrete's "Motion for Extension of Time to File Objection," filed on August 26, 2005, as an adversary complaint; (3) requests that the Court provide Mr. Negrete with the forms he needs to file an adversary complaint; and (4) requests that the Court set "an explicit deadline" for the him to file an adversary complaint.

Mr. Negrete failed to comply with the deadlines set by the Court's previous orders and is not entitled to any of the relief requested.

On August 26, 2005, Mr. Negrete together with Miguel Cardin filed a "Motion For Extension Of Time To File Objection." On September 12, 2005, the Court entered an "Order Denying, In Part, and Granting In Part, Miguel Cardin's and Raul Moyo Negrete's 'Motion For Extension Of Time To

File Objection.” The Order stated that the Court was construing the motion, in part, as a motion to obtain an extension of the time limits (1) under Fed.R.Bankr.P. 4004(a) to file a complaint objecting to discharge under 11 U.S.C. § 727(a); and (2) under Fed.R.Bankr.P. 4007(c) to file a complaint to determine dischargeability of a debt under 11 U.S.C. § 523. The Order granted an extension of time for Mr. Negrete to file an adversary complaint, and set an explicit deadline for filing it:

IT IS ORDERED that Miguel Cardin’s and Raul Moyo Negrete’s “Motion For Extension of Time to File Objection,” is GRANTED, in part, to the extent that it seeks an extension of time to file an adversary complaint objecting to discharge under 11 U.S.C. § 727 and/or to determine the dischargeability of a debt under 11 U.S.C. § 523. The deadlines for Miguel Cardin and Raul Moyo Negrete (1) to file a complaint objecting to discharge under 11 U.S.C. § 727(a); and (2) to file a complaint to determine dischargeability of a debt under 11 U.S.C. § 523, are extended until and including **Tuesday, October 18, 2005.**

The September 12, 2005 Order denied all other relief: “IT IS FURTHER ORDERED that except to the extent of the relief granted above, Miguel Cardin’s and Raul Moyo Negrete’s ‘Motion For Extension of Time to File Objection,’ is DENIED.”

Mr. Negrete did not file an adversary complaint by the extended October 18, 2005 deadline, nor did he file any motion for a further extension of time to file an adversary complaint before the expiration of that deadline. Thus, no adversary filing fee was ever due. For this reason, on February 14, 2006, the Court filed an “Order Requiring Raul Moyo Negrete To Cause The Lawrence Correctional Center to Cease Making Installment Payments To The Bankruptcy Court For An Adversary Proceeding Filing Fee.” The February 14, 2006 Order provided, in relevant part:

IT IS ORDERED that Raul Moyo Negrete promptly cause the Lawrence Correctional Center to cease withdrawing any funds from his

trust fund account for payment to the Clerk of the United States Bankruptcy Court for the Eastern District of Michigan by (1) withdrawing his authorization to do so, and (2) by providing the Lawrence Correctional Center with a copy of this Order.

IT IS FURTHER ORDERED that the Clerk of the United States Bankruptcy Court for the Eastern District of Michigan refund any funds received for payment of Raul Moyo Negrete's adversary proceeding filing fee.

In his March 27, 2006 motion seeking reconsideration of the Court's February 14, 2006 Order, Mr. Negrete alleges that he did not file an adversary complaint because he thought that because the Court did not provide him with the necessary forms to file an adversary complaint, the Court would construe the August 26, 2005 "Motion For Extension Of Time To File Objection" as an adversary complaint. However, the "Motion For Extension Of Time To File Objection" did not purport to be an adversary complaint nor request that the Court construe it as such, and the Court's September 12, 2005 Order made it clear that the Court was not construing the motion as an adversary complaint, but, rather as a motion for an extension of time to file an adversary complaint, and that Mr. Negrete must file an adversary complaint by October 18, 2005. The Court's September 12, 2005 Order also made it clear that the Court was denying all other relief requested in the August 26, 2005 motion, including the request that the Court provide Mr. Negrete with forms to file an adversary complaint. Therefore, Mr. Negrete's arguments in the present reconsideration motion are without a factual basis. The Court finds the motion fails to demonstrate a palpable defect by which the Court and the parties have been misled, and that a different disposition of the case must result from a correction thereof. *See* Local Rule 9024-1(c).

Accordingly,

IT IS ORDERED that Raul Moyo Negrete's "Motion To Reconsider Order in the Bankruptcy Court for An Adversary Proceeding & Filing Fee" (Docket # 80) is DENIED.

Entered: April 18, 2006

/s/ Thomas J. Tucker

Thomas J. Tucker
United States Bankruptcy Judge